IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 13699 of 1996

Between:

1 Neeral Narasaiah S/o. Yellaiah
R/o. Ganneruvaram (v), Bejjanki (M),
Karimnagar (D).
2 Parankusam Gopala Kistaiah S/o. Narayana
R/o. Ganneruvaram (v), Bejjanki (M),
Karimnagar (D).
3 Kantala Madhusudhan Reddy alias Midde Madhusudhan Reddy S/o. Kantala Raji Reddy
R/o. Ganneruvaram (v), Bejjanki (M),
Karimnagar (D).

..... PETITIONERS

AND

1 The Govt. of A.P., rep. by its Asst. Secretary Irrigation (Projects Wing) Dept, Secretariat Bldgs, Hyderabad
2 The Spl. Collector, SRSP and SLBC
HUDA Complex Tarnaka, Hyderabad
3 The Spl. Dy. Collector, L.A.Unit
L.M.D. Colony Karimnagar (D).

.....RESPONDENTS

Counsel for the Petitioners: MR.T.RAMULU

Counsel for the Respondents: GP FOR LAND ACQUISITION

The Court made the following :

ORAL ORDER:

The land in S.Nos.78, 1140 and 1135 of Ganneruvaram village of Bejjanki Mandal in Karimnagar District belonging to the petitioners was acquired by the Government under the provisions of the Land Acquisition Act, 1894 (for short 'the Act'). Alleging that irrigation wells, cattle shed and several trees are existing in the said land and that the Land Acquisition Officer, having acquired them also, failed to pay compensation for the wells, trees and cattle shed, petitioners filed this writ petition seeking a direction to the respondents to pass an award in respect of the wells and trees and the cattle shed.

2. The contention of the learned counsel for the petitioners is that since the petitioners were paid compensation only for the land and were not paid compensation for the wells, trees and cattle shed, in spite of their making several representations, petitioners filed this petition seeking a direction to the respondents to pass award in respect of the wells, trees and cattle shed existing in the lands that were acquired.

3. The contention of the learned Assistant Government Pleader is that at the time of acquisition there were trees and well only in S.No. 78 but not in other S.Nos and since the award shows that the owners of the land in which trees were in existence were permitted to cut them away and utilize the wood, no compensation is being paid to the trees in the acquired lands, and since the award also shows that the well in S. No. 78 was also taken into consideration for awarding compensation for the land acquired, petitioners are not entitled to any relief.

4. Receipt of compensation as per the award from the Land Acquisition Officer by the petitioner is not denied and disputed. Petitioners expect a separate award being passed for the trees, wells and cattle shed said to be in existence in the land that was acquired on the ground that their existence is shown in the

notification published under Section 4(1) of the Act and since those wells, cattle shed and the trees are not referred to in the award passed by the Land Acquisition Officer.

5. The word 'Land' is defined in Section 3(a) of the Act as

> "Land includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth."

Section 11 of the Act contemplates the Land Acquisition Officer making an award keeping in view the 'value of' the 'land' at the date of publication of the notification under Section 4(1) of the Act etc. The word 'land' used in Section 11 of the Act has to be understood in the light of the definition given to that word in Section 3(a) of the Act. Since 'land' includes anything attached to the earth, and benefits to arise out of land, trees, cattle sheds and wells in the land acquired also would have to be taken into consideration by the Land Acquisition Officer while arriving at the compensation payable to the person from whom the land is acquired. In fact Section 23 of the Act lays down the matters to be taken into consideration in determining the compensation payable. As per the A.P. amendment to Section 23 of the Act, 'improvements to the land before the date of publication of the notification under Section 4(1) of the Act have to be taken into consideration. 'Wells', 'cattle sheds' and 'trees' certainly would be improvements and so if the petitioners are not satisfied with the compensation awarded by the Land Acquisition Officer, they should have asked for a reference to the Civil Court for determination of compensation payable to them, under Section 18 of the Act. Admittedly, they did not make a protest and did not file any application before the Land Acquisition Officer under Section 18 of the Act for referring the case to the Civil Court for determination of the compensation payable to them.

6. For the above reasons, I am unable to agree with the contention of the learned counsel for the petitioners that since the Land Acquisition Officer passed an award for the land only, for which, according to him, petitioners have no grievance, under a hope that the Land Acquisition Officer would pass a separate award for the well, cattle shed and trees, they did not make a protest and were making representations to the Land Acquisition Officer for passing a separate award, and so he should be directed to pass a separate award. The contention that the Land Acquisition Officer did not take into consideration the trees, wells etc., cannot be accepted because there is a specific mention as to why compensation is not being awarded to the trees in the acquired land and about the existence of the well and their value. So petitioners instead of making a request for reference to Civil Court for determination of the compensation payable to them within the time stipulated, cannot seek a direction to the Land Acquisition Officer to pass a second award. Giving such direction amounts to circumventing the provision of Section 18 of the Act and breathing life into a cause, which died a natural death.

7. Therefore, I find no merits in the writ petition and accordingly the writ petition is dismissed. No order as to costs.

C.Y.SOMAYAJULU, J.

22-12-2005

Kvsn